Filed 11/14/14 P.A. v. Superior Court CA1/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

P.A., Petitioner, v. THE SUPERIOR COURT OF ALAMEDA COUNTY, Respondent; ALAMEDA COUNTY SOCIAL SERVICES AGENCY et al., Real Parties in Interest.	A142605 (Alameda County Super. Ct. No. HJ11016951)

P.A., the presumed father of three-year-old P.A., Jr., petitions for a writ of mandate to set aside the juvenile court's order of July 24, 2014, terminating his reunification services and setting a hearing, pursuant to Welfare and Institutions Code section 366.26,[1] for November 20 and December 1, 2014. Despite father's demonstrated affection for his son and progress in correcting conditions that led to the minor's removal, the juvenile court was amply justified in concluding that returning custody to the father would pose unacceptable risks to the minor's well-being in view of P.A., Jr.'s, life-threatening medical conditions. We therefore must deny the petition.

[1]All further unspecified statutory references are to the Welfare and Institutions Code.

FACTUAL AND PROCEDURAL BACKGROUND

On May 13, 2011 the Alameda County Social Services Agency (agency) filed a juvenile dependency petition alleging that parents' three children had been or were at substantial risk of suffering serious physical harm or illness as a result of their parents' inability to provide regular care due the parents' mental illness, developmental disability, or substance abuse. On or about May 3, 2011, the mother and her newborn son, P.A., Jr., tested positive for methamphetamines. The mother admitted to using methamphetamines four times while she was pregnant with the child. Furthermore, the parents were alleged to have substance abuse issues which interfered with their ability to care for the children and they did not take responsibility for their drug use. The father was on probation for battery; he was also under court order to attend both Narcotics Anonymous and domestic violence classes.

The agency filed a jurisdiction/disposition report on June 3, 2011, in anticipation of an uncontested hearing. The report noted earlier social service contacts regarding one of the boy's siblings for possible neglect.[2] The children were staying with their parents, who were willing to "accept services and work towards recovery." The mother had a positive hair follicle test for amphetamines and methamphetamines, demonstrating her "consistent use of drugs." The father's hair follicle test was negative, as were both parents' May 18, 2011 urine tests. Father was unemployed; the parents rented a room, and lived with two other families. The parents shared their room with their three children.

The agency recommended that P.A., Jr., be declared a dependent of the juvenile court, but that his care and custody be committed to the parents and that family

[2] The report also noted incidents of sexual abuse of another minor child of the mother. Mother received services but failed reunification, and ultimately relinquished her custody rights.

maintenance services be provided to the family.[3] The court adopted the agency's recommendations and set a six-month review hearing for November 10, 2011.

The agency report prepared for the six-month review indicated that the father was participating in drug testing, Narcotics Anonymous, and parenting and domestic violence classes. He had not complied with the requirement that he undergo individual counseling. Although he had been referred to a therapist on September 6, 2011, more than a month later he had not made an appointment for therapy. He was working part-time at an assisted-care living center and was permitted to reside temporarily at his place of employment, until he was able to find a more permanent residence. Mother too was making good progress in her case plan, having completed the first stage of residential drug treatment.[4]

Not long after his birth P.A., Jr., was diagnosed as suffering from significant medical issues including congenital biliary atresia[5] and neonatal jaundice. The minor underwent a surgical procedure to treat his liver problem and was discharged with instructions to receive various medications. He was hospitalized the next month, July 2011, for abnormal bowel function and hospitalized again in September 2011.

The six-month status report states: "The mother has re-scheduled/canceled/missed 4 appointments for a medically fragile child who may need a liver transplant and has other issues which include: Biliary Atresia, Upper respiratory infection (temporary), Collostasis, Acid Reflux and has an immune system that is weak, such that the minor is susceptible to colds/viruses. [¶] It is important to note that the mother ran out of liver

---

[3] Because only the father has petitioned for relief, we focus primarily on his relevant history, discussing the mother's history only to provide necessary context.

[4] P.A., Jr., and his full siblings also resided with their mother in the inpatient facility. During the first stage of the mother's treatment, no contact with the father was permitted.

[5] "Biliary atresia is a life-threatening condition in infants in which the bile ducts inside or outside the liver do not have normal openings." (National Digestive Diseases Information Clearinghouse (NDDIC), *Biliary Atresia*, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, <http://digestive. iddk.nih.gov/ ddiseases/pubs/atresia/#1> (as of November 13, 2014).

medicine for a period of 4 days (10/14/11, until 10/17/11), so the minor was without liver medication for 4 days. This is especially concerning as the mother ensured that the minor was seen by Dr. Khavari at Lucille Packard on 10/14/11. Dr. Khavari could [have] prescribed the medications as mother was out one day at the time of the appointment. On 10/17/11, the mother left the [child welfare worker] a message reporting that the mother initially did not want to pick up the minor's liver medications at Kaiser Hayward, due to her fear of possible relapse for going into that area would temp[t] her to use, despite the fact that the minor had been out of meds for 4 days. [¶] Also, in August of 2011, the mother ran out of formula for the minor who requires a special formula that has to be ordered through a pharmacy."

The agency recommended various changes in the case, including that the father was to participate and complete individual therapy, submit to random weekly drug testing, attend Narcotics Anonymous and complete an outpatient drug treatment program; both parents were to ensure that all children attend scheduled medical and dental appointments; both parents were to ensure that the children take their prescribed medications; and both parents were to avoid canceling or rescheduling the children's medical appointments. The juvenile court adopted the agency's recommendations, continued family maintenance services, and set a further hearing for April 26, 2012.

On December 20, 2011, the agency filed a supplemental petition because of dramatic and negative changes in the minor's situation. P.A., Jr., had been detained in the hospital and was to be discharged to a foster home. Although the mother was continuing to care for the minor's full siblings, she was unwilling and unable to care for P.A., Jr., due to his medical needs. The report described P.A., Jr., then seven months old, as "medically fragile, requiring "a nasogastric tube for feeding and administering medications," a liver transplant, daily medications, and "diligent and consistent medical care." The mother had administered a double dose of Lasix[6] for three consecutive days

[6] Lasix is the brand name for furosemide, a diuretic that prevents the body from absorbing too much salt. (Drugs.com, <http://www.drugs.com/lasix.html>(as of November 13, 2014)). If given in excessive amounts it can lead to profound water and

without informing medical staff. In addition, she had been terminated from inpatient drug treatment due to a positive test for methamphetamine and being one month behind in her treatment program. Both parents were in temporary housing in an extended stay hotel, but did not have housing arranged for the near future.

On December 21, 2011, the juvenile court formally detained P.A., Jr., out of the home. His 10-year-old sister, who suffers from attention deficit hyperactivity disorder, autism, and a learning disability, and his three-year old brother, who has asthma, were not detained.

On January 9, 2012, both parents waived their right to a trial when they appeared for the uncontested jurisdiction/disposition hearing on the supplemental petition. The court found that the agency had made reasonable efforts to return the child to a safe home and to complete the necessary steps to finalize his permanent placement. It also found that both parents' progress towards alleviating or mitigating the causes of the placement had been partial, and directed that family reunification services be provided to both parents. It set a six-month status review hearing for June 20, 2012,[7] and an interim progress report on April 25, 2012.

On January 18, 2012, P.A., Jr., received a liver transplant. By January 26, he was manifesting signs of rejecting the liver. In addition, a clot had formed in one of his arteries. As a result he required various medical procedures including a catheterization and weekly blood draws. According to the report prepared for the April 25 interim review, it was not yet clear whether the child would require a second liver transplant. The father was then "actively engaging in substance abuse treatment, weekly random drug testing, and domestic violence classes" and was "doing well in the program." Both parents "continue[d] to struggle with housing" and were staying in hotels. They were

---

electrolyte depletion. (RxList, <http://www.rxlist.com/lasix-drug.htm> (as of November 13, 2014).)

[7] This was the six-month review from the time P.A., Jr., had been physically detained—as distinguished from the prior six-month review when the family was receiving maintenance services.

attending the child's medical appointments at Lucille Packard Hospital, but due to geographic and transportation issues it was difficult for them to visit him at other times. At the April 25 hearing, the court made no significant changes in the case plan.

The agency report prepared for the June six-month status review recommended that reunification services be continued for both parents, notwithstanding the mother's feeling that she was unable to provide the intensive care and attention the child needed, in addition to caring for her other two children, and remaining sober.

The agency recommended that services be continued because both parents had made "significant progress with their respective case plan[s]." Of particular concern in the father's case, he was deemed to have only partially shown his ability and willingness to handle custody of the minor. He had only partially maintained consistent and regular contact with the public health nurse and kept up with the child's medical appointments and conditions. The juvenile court adopted the agency's recommendations, found that reasonable services had been provided, and ordered a further six months of reunification services, setting the 12-month review for December 5, 2012.

The agency's 12-month status review report recommended that reunification services to both parents be terminated and that a hearing pursuant to section 366.26 be scheduled to consider a plan for adoption. Reportedly, the parents were ambivalent about the agency's recommendation. The mother had tested positive for methamphetamines. She reported that "the burden of residing in a shelter, engaging in case plan activities, going to visits to see her son . . . and caring for her other two children had placed an insurmountable burden on her." She did not think she could care for the child due to the added stress it would cause. The marital tension with her husband was such that they were considering separation or divorce. The mother entertained the thought that perhaps the father, but not she, might try to reunify with the child, but if that were the case, he would "need to start demonstrating that."

The father had completed 52 weeks of domestic violence classes and substance abuse counseling. He did not complete his aftercare program successfully. He was supposed to have attended Narcotics Anonymous meetings and to obtain a sponsor but he

did not believe that was necessary because he could maintain his sobriety through hard work, faith, and prayer. However, he agreed to do whatever was necessary to regain custody of his son. He had been referred to Lucille Packard for training on meeting his son's medical needs, but had completed only one of the three training sessions. He had also been referred for caregiver evaluation and assessment for placement, but had only been able to leave a message with the provider. Finally, the father, together with his wife, had been referred for couples counseling.

In anticipation of the contested hearing the agency filed an updated status report on January 25, 2013, which reiterated its recommendation that services be terminated. The mother had not engaged in aftercare drug counseling or random drug testing since December 18, 2013, but did have an appointment scheduled for those services. The parents had both attended two sessions of couples counseling, but the sessions were unproductive because the parents brought their two other children with them and the therapist felt it was inappropriate to discuss the parents' issues in front of the young children. The father was reported to be in minimal compliance with his case plan; his random drug tests were all negative, but the required couples therapy was, as noted, unproductive, and he had completed only one of three or four required sessions for the critical caregiver's evaluation. P.A., Jr., had been hospitalized again and was discharged with a nasogastric tube in place. He had been placed with a family in which the woman was a physician's assistant, well-versed with the child's needs. The social worker's assessment was that the mother was still unable to administer the appropriate doses of medication to the child and planned to leave that to the father. The mother also reported that the father was working "all the time," but that if the child returned home, the father might be able to change his hours. The social worker's assessment was that the father had made "minimal progress" with his case plan.

The court did not follow the agency's recommendation to terminate services. Rather, pursuant to an agreement between the parties, the court found that reasonable services had been provided, continued reunification services, ordered a minimum of three visits per month, with agency discretion to increase the number of those visits and

authorize unsupervised visits, and reduced the required frequency of the father's random drug tests.

Prior to the 18-month review, the minor's caregivers submitted information about his current status. P.A., Jr., had had numerous viral infections over the winter months, with two episodes requiring hospitalization. Dehydration had adversely affected his liver, requiring a liver biopsy and other diagnostic studies. He had been admitted to the hospital for a tonsillectomy. He also had been diagnosed as having expressive and receptive language delays, a sensory-based feeding disorder, and decreased oral motor and grasping skills. Therapy was begun in March 2013 and the foster mother described his progress as "amazing."

On June 6, 2013, the agency filed its 18-month status review report, again recommending that reunification services be terminated and that a section 366.26 hearing be set. The parents now disagreed with those recommendations.

The father continued to work at an assisted-care facility—working highly variable hours, ranging from a few hours to 40 hours per week. Working with a housing specialist, the parents were able to find an apartment, for which they were obligated to pay graduated amounts over time. The initial rent was $525 per month, increasing by July 2013 to $1,050 per month. Because of the father's variable work hours and the fact that he was the sole wage earner, the agency felt he might be unable to pay his rent on a regular basis. Overall, the agency considered the father to be in partial compliance with his case plan. His drug testing was consistently negative for illegal substances. He had completed the caregiver evaluation, although much later than if he had not stopped attending for a period of time. He had successfully completed both the primary and after-care substance abuse programs, with the caveat that his completion was not considered to be successful because he had not actively engaged in Alcoholic or Narcotic Anonymous meetings, which were "vital to maintaining sobriety."

The mother acknowledged that she "may not be able to fully care" for the minor, but that her husband "would be able to step in and help out." The agency was concerned that the father regularly worked on nights and weekends, often precluding him from

helping; that the needs of the other two children (one of whom was also a special needs child), plus the needs of P.A., Jr., might be overwhelming for the father when he returned home and needed rest; and that in addition to regularly scheduled medical appointments, there was the potential need to transport P.A., Jr., to the hospital on an emergency basis, and the mother did not drive. In addition, the agency was concerned about the unstable relationship between the parents, including their history of domestic violence. During the most recent reporting period, the parents had not been attending couples therapy. There was also a referral for an investigation of possible sex abuse by one of the minor's siblings towards his sister.

The agency summarized its assessment as follows: "It would be detrimental to return [P.A., Jr.,] back to the care of his parents as [his] medical conditions remain unstable. This year alone, [P.A., Jr.,] was taken to the hospital more than 15 times including two hospital stays and two medical procedures. [He] requires his caregiver's full attention, as something as simple as a runny nose could be a significant medical concern. The couple is currently caring for their two children who also require their full attention as their daughter is diagnosed with cognitive delays and possibly Down syndrome. The couple's son is four years old and also requires the couple's full attention. Returning [P.A., Jr.,] back to the care of his parents would not only jeopardize his health but could make their home life and ability to safely parent the two children in their home more unstable than it is at this time. In addition to all of the above, the couple has stated that they will be unable to pay market rate rent at their current residence. Furthermore, there is currently a 10-day child abuse investigation pending as a call was called into the hotline alleging abuse against their daughter by their son. Therefore, the agency is recommending that family reunification services to the parents be terminated and that a 366.26 hearing be set."

On June 13, 2013, the parents requested a contested hearing on the agency's recommendation. The hearing ultimately spanned several dates over nearly one year. Extensive testimony was received, including the testimony of the child welfare worker, both parents, the family preservation worker, and the former assistant to the father's

counsel. Written reports, including the agency's 18-month review report, confidential psychological reports for both parents, and addenda reports, were received into evidence.

The report of the court-appointed special advocate stated: "[P.A., Jr.,] . . . has been living with [foster parents] and their 3 year-old son . . . since December 16, 2012. The [caretakers] are committed to [P.A., Jr.,] and desire to adopt him. [P.A., Jr.,] is extremely bonded with [female caretaker] and refers to her as 'mom.' At their home in Napa, CA, [they] interact like brothers. They enjoy playing together and also display normal sibling rivalry such that the interactions were refreshingly like any typical family with young children. . . From all outward appearances it would be hard to tell that [P.A., Jr.] is medically fragile. At the [caretaker's] home is protected, cared for, loved, and given the freedom to be a 'normal' little boy. [¶] [P.A., Jr.]'s, biological parents . . . are very kind and good natured. Since [P.A., Jr.] has been in the current placement with the [caretakers], they have been fairly consistent with seeing [P.A., Jr.,] three times per month in a supervised setting for approximately 2 hours per visitation. They have only cancelled two visitations since February. However, they also have the opportunity to attend all of [P.A., Jr.]'s, medical appointments and while they attend the majority of his liver transplant appointments (every 2 months), they do not attend his other specialty appointments. Since being placed with the [caretakers] they [i.e., the parents] have missed the following appointments: 2 audiology appointments . . . ; 5 liver transplant appointments . . . ; 2 ENT appointments . . . , and 3 dental appointments . . . ."

The special advocate's report goes on to explain that the child is a "medically fragile" boy, requiring nine different medications and/or supplements, given in various dosages throughout the day. The medical routine is of "grave importance" because if the various medications and supplements are not properly coordinated with meals, it could result in a rapid physical decline requiring hospitalization.

The special advocate reported that during a May 8, 2014 medical appointment the nurse reviewed the medication list. Parents and caretakers are instructed to bring the medication list to all appointments; the biological parents did not do so. The mother was unable either to remember the medications or, when prompted with the medication

names, to indicate the dosages. The father made no attempt to help her out—either because he did not know the medications or was choosing not to participate. In contrast, the foster mother had the list memorized.

The special advocate's report continued: "[The nurse] described [P.A., Jr.,] as a ticking time bomb. He *will* need to have another transplant and the next transplant she reported will be much more difficult to survive. She indicated that it is a very bloody procedure, requiring significant blood transfusions, made complicated by scar tissue from the first transplant. Closer to the time of the need for his second transplant he will need to be re-hospitalized and will go on the wait list for a donor. She stressed the importance of catching problems with his physical health early so as to prolong the 2nd transplant long enough for him to be strong and healthy enough for his body to endure it. This is why . . . a high level of care at home is essential. On the positive side she stated that [the caretaker] is literally saving [the child's] life. He has remarkably been stable and out of the hospital for over a year now She stated his condition is like a house of cards, if one thing is out of place it all falls down. [The caretaker] has the ability to keep the house of cards standing and under her care [the child] is as healthy as he can be under the circumstances. [¶]. . . Of critical importance is maintaining [P.A., Jr.]'s, optimal health to prolong re-hospitalization and the need for a 2nd liver transplant before his body is physically able to endure it. Therefore, maintaining stability and the status quo . . . in his current placement is in his best interest. Of additional critical importance is keeping [the child's] emotional well-being stabilized by not changing his current placement and the bonding and trust that has developed over the course of the last year and a half. Given [P.A., Jr.]'s, history of not adjusting well to change, there is no telling what could happen with a change in his placement. Unfortunately, given [P.A., Jr.]'s, medically fragile state there is no room for risk at all. While [P.A., Jr.]'s, biological parents no doubt love him very much and will continue to fight for him, the fact is there is no room for error. The history of error under their care combined with the void of a bond given reason to believe that any change in placement to [P.A., Jr.]'s, care would not only be traumatic but could without question cause the 'house of cards' to fall."

At the 18-month review on July 24, 2014, the juvenile court found that the return of the minor to his parents' custody would create a substantial risk of detriment to his safety, protection and physical or emotional well-being, terminated further services to the parents, and set a section 366.26 hearing for November 20, 2014. Father filed a notice of intent to file a writ petition the next day.

DISCUSSION

In his petition, the father makes three main arguments: (1) the record does not support the juvenile court's finding that return of the minor to his father would pose a substantial risk of detriment; (2) the record lacks sufficient evidence to support the juvenile court's finding that reasonable services were provided to the father; and (3) the juvenile court abused its discretion by not extending services to the father. He also contends that because the child's foster parents are committed to adopting him, the child would not be harmed if the reunification period were extended.

Our task is to determine whether there is any substantial evidence, contradicted or not, which supports the lower court's findings. (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 971). All legitimate inferences should be drawn in favor of the juvenile court's findings. (*Ibid.*) The evidence relied on by the juvenile court must be reasonable in nature, credible and of solid value. (*Estate of Teed* (1952) 112 Cal.App.2d 638, 644.) At the 18-month hearing the court is directed to return the child to his parents' custody "unless the court finds, by a preponderance of the evidence, that the return of the child . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.22, subd. (a).)

In disputing the finding that returning P.A., Jr., to his father would create a substantial risk of harm, the father lists the respects in which he did and did not comply with his case plan: (1) he successfully completed a domestic violence class, (2) there was no recent evidence of familial violence, (3) he completed a parenting class and was successfully parenting two minor children, (4) he had a substance abuse sponsor, (5) all drug testing had been negative, but (6) he was not attending Narcotics Anonymous meetings, and (7) he did not engage in individual counseling. The list, however, fails to

include, among other things, the critical goal of involvement in P.A., Jr.'s, medical care. More importantly, this tallying of accomplished versus unaccomplished tasks misses the proverbial forest for the trees. (See *In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1141-1142 [considering whether the parent has met the technical requirements of the reunification plan is but one consideration for the court in deciding to terminate services].) The big picture is dominated by the fact that P.A., Jr., has a life-threatening medical condition requiring constant vigilant attention.

One of the principal goals of the father's case plan was to become conversant with P.A., Jr.'s, "medical appointments and medical conditions." Despite this, he had read only a few pages of a liver transplant binder given to him and, although encouraged to bring the binder to liver transplant appointments, he did not reliably do so. He was reluctant to ask the nurse questions about his son's liver condition. He had not recently given his son either his medications or vitamins. He did not regularly attend all of the child's medical appointments. Although at times the father expressed confidence that he could care for his son, he also entertained serious doubts about his and his wife's ability to do so successfully. Indeed, visitation had not progressed to the point that either he or his wife had recently cared for their son.

At the 18-month hearing the court was required to determine whether returning P.A., Jr., to his parents' or his father's custody would create a substantial risk to the minor. (See *In re Joseph B.* (1996) 42 Cal.App.4th 890, 900 [if returning a child to parental custody creates a substantial risk of detriment, the child should not be returned even if the detriment is not the same which originally required the child's removal].) Given P.A., Jr.'s, medical fragility, there was overwhelming evidence of a significant risk. There is a frighteningly small margin for error. The father lacks experience keeping his son on the correct dietary/medical regimen. He lacks intimate familiarity with the regimen requirements. He lacks a close connection with the medical professionals who are caring for his son. And he has no track record of successfully caring for his son—even for brief periods of time—while simultaneously meeting his other obligations

towards his two other children, holding down a job, and providing for the family's basic needs.

We do not minimize the significance of the father's fulfillment of many of the goals outlined in his case plan. Ending his substance abuse, ensuring a nonviolent domestic life, providing for the basic needs of the family, and maintaining stable housing are hardly trivial accomplishments. Nor can we disregard the profound love that the father has evidenced towards his son. But as important as these factors are, they do not eliminate the potential risk to which the evidence shows that P.A., Jr., would be subjected if he were now returned to his father's custody. Although the father may not be responsible for his son's medical condition as a "ticking time bomb," that, unfortunately, is the situation that exists.[8] In this context, there is certainly substantial evidence to support the juvenile court's decision to terminate services and set a section 366.26 hearing.

Petitioner's second argument—that there is insufficient evidence to support a finding that reasonable services were provided—also fails. Father argues that the original reason for detaining P.A., Jr., was the parents' inability to provide necessary medical care, yet the case plan "only minimally addressed these important barriers to reunification."

Section 366.22, subdivision (a), governing dependency proceedings after a minor has been detained for 18 months—neither gives the court the option to continue reunification services nor prohibits it from setting a section 366.26 if it determines that returning the minor to the parent would create a substantial risk of detriment. (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1511.)[9] Thus, even if reasonable services had not been offered—which we do not find to be the case—the failure would

---

[8] We are aware that recently P.A., Jr.'s, medical situation has been more stable. But the evidence suggests that his stability is a function of excellent and diligent care, rather than a sign that his ailments have been eliminated.

[9] An amendment adopted after *Denny H.* was decided created certain limited exceptions to this rule. (See *Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1504.) Those exceptions are inapplicable in this case.

not require a different disposition. In all events, as early as November 10, 2011, the agency modified its case plan to include both parents fulfilling their responsibilities to have the children attend all scheduled medical appointments and to receive their prescribed medications. The agency's status report, filed on June 8, 2012, reported that the father was in partial compliance with the requirement that he maintain consistent and regular contact with the public health nurse and "keep up" with his son's medical appointments and conditions. The agency's status report, filed on November 19, 2012, indicated that to assess the father's ability to care for his medically fragile son, he had been referred to the hospital where his son was being treated to receive training in meeting the child's medical needs. At that point he had completed only one of three training sessions. In addition, he had been referred for a caregiver assessment, but had only left a phone message with the provider. As of the filing of the January 25, 2013 agency report, he had completed only one of three or four caretaker evaluation sessions. He finally completed the evaluation on May 9, 2013, with the provider noting that it could have been completed much earlier had the father not stopped coming to sessions for a period of time. As recently as May 28, 2014, the court-appointed special advocate reported that the parents attended the majority of the child's liver transplant appointments, but did not attend the other specialty appointments. In short, the father's case plan set a goal of becoming increasingly knowledgeable about and involved in the medical aspects of his son's care and provided special services specifically geared to that goal. The father hesitated in taking advantage of these services, never enthusiastically assuming appropriate parental responsibility for the child's medical care.

Moreover, the family reunification case worker testified that given P.A., Jr.'s, medication schedule, in order to demonstrate that either parent was properly administering P.A., Jr.'s, medications, he would need to be in the parents' custody for at least 12 to 24 hours, if not longer. When asked, earlier, whether the agency planned a visit in the parents' home, the case worker replied that was in the progressive plans, but they "hadn't gotten to that point yet." Getting to that point first required a drug-free, violence-free household in a stable, physically safe environment. The agency's April

2012 report indicated that the parents were still struggling with housing. The December 2012 report reflected continued drug use by the mother, marital tensions between the couple such that they were considering separation or divorce, and the mother's doubts about whether she wanted to reunify with the child. The January 2013 report indicated that the father had not yet completed the caretaker's assessment. Even at the 18-month hearing the parents' long-term housing remained insecure. Thus, there were significant obstacles beyond the agency's control, which prevented overnight visits and the opportunity for father to demonstrate the ability to provide around-the-clock timely medication to the minor .

Similarly, allowing the father to demonstrate his caretaking abilities also required a child healthy and strong enough to be away from his normal environment for an extended period of time. The June 5, 2013 report from the child's caretakers reflected the minor's recent hospitalizations, surgery, and need for significant diagnostic procedures, including a liver biopsy and an MRI. Given these circumstances, it was not unreasonable for the agency to have deferred overnight visitation. Even if the agency might have done more to facilitate the father's involvement in his medical care, it is only required to do what is reasonable under the circumstances. (*In re Julie M.* (1999) 69 Cal.App.4th 41, 48.) The plan was reasonable; unfortunately, the father's progress was not rapid and secure enough to establish his ability to safely care for his son.

Nor did the juvenile court abuse its discretion by failing to extend services beyond the 18-month hearing. Father had already received extended services. The agency initially provided *maintenance* services, before detaining P.A., Jr. When the child was detained, the clock was effectively re-set because the family then started receiving *reunification* services. In addition, the contested hearing was prolonged. Thus, effectively, the father received either maintenance or reunification services for approximately 37 months. In all events, none of the limited statutory bases for extending services beyond the 18-month hearing are present. (§ 366.22, subd. (b) [allowing extension of services where a parent was recently discharged from incarceration or institutionalization].) Absent such an exception, at the 18-month hearing the juvenile

court's authority to schedule a hearing under section 366.26 is not conditioned on finding that reasonable services have been provided. (*Denny H. v. Superior Court, supra* 131 Cal.App.4th at p.1511.) As the father acknowledges, the 18-month review hearing is a critical juncture in dependency proceedings because the statutory framework requires that the court either return the minor to the parents or terminate services and proceed to developing a permanent plan. (§ 366.22; see also *In re Elizabeth R.*(1995) 35 Cal.App.4th 1774, 1788, citing *In re Michael R.* (1992) 5 Cal.App.4th 687, 695-696 ["The focus during the pre-permanent planning stages is preserving the family whenever possible [citation] whereas the focus after the permanent planning hearing is to provide the dependent children with stable, permanent, homes."].)

Finally, father's argument that because the minor's caregivers "are clearly committed to adopting" him, there would be no harm in extending the reunification period, likewise fails. As our Supreme Court has recognized "children have a fundamental independent interest in belonging to a family unit [citation], and they have compelling rights to be protected from abuse and neglect and to have a placement that is stable, permanent, and that which allows the caretaker to make a full emotional commitment to the child." (*In re Marilyn H.* (1993) 5 Cal.4th 295, 306.) The juvenile court is directed to give "substantial weight" to a child's need for "prompt resolution of his or her custody status," thereby avoiding, to the extent possible, "damage to a minor of prolonged temporary placements." (*Id*. at p. 308.) It did so here and despite father's genuine attachment to his son, there is no basis to disturb its decision.

DISPOSITION

For the above-stated reasons, the petition for an extraordinary writ and the related request for a stay of the section 366.26 hearing are denied. Because the section 366.26 hearing is set for November 20, 2014, our decision is immediately final as to this court. (Cal. Rules of Court, rules 8.452(i), 8.490(b)(2)(A).)

_____
Pollak, Acting P.J.

We concur:

_____
Siggins, J.

_____
Jenkins, J.